



California Regional Water Quality Control Board

Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

APR 02 2007

GTO Development
c/o Roger O'Neal
100 Wilshire Boulevard, Suite 1270
Santa Monica, CA 90401

Certified Mail: 7005 3110 0000 1160 2690

COMPLAINT NO. R6V-2007-0016, ISSUED TO GTO DEVELOPMNET FOR THE VIOLATION OF WATER CODE SECTION 13376 AND WASTE DISCHARGE PROHIBITIONS PRESCRIBED IN THE *WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION* FOR THE UNAUTHORIZED DISCHARGE OF UNTREATED WASTEWATER TO SURFACE WATERS WITHIN THE UPPER MOJAVE HYDROLOGIC AREA, LAKE ARROWHEAD, SAN BERNARDINO COUNTY

Administrative Civil Liability Complaint No. RV6-2007-0001 is hereby rescinded. Enclosed is the above-referenced Administrative Civil Liability Complaint (Complaint). The Complaint in the amount of **\$20,000** contains allegations that GTO Development violated Water Code section 13376 and Waste Discharge prohibitions contained in the Lahontan Water Quality Control Board's (Water Board) *Water Quality Control Plan for the Lahontan Region*. The violations occurred during sewer connection activities associated with the construction of the residential development known as Tract 16211 in Lake Arrowhead, San Bernardino County. WTA Construction Company punctured a water main during sewer connection activities. Water from the water main break flowed into the active sewer system. The active sewer system could not handle the volume of flow from the water main break, causing the active sewer system to overflow from three manholes to land and surface water within the Upper Mojave Hydrologic Area on June 16, 2005. This letter outlines the Water Board's procedures and options for processing the Complaint.

GTO Development Waives Hearing

If GTO Development decides to waive a hearing regarding this matter and remit payment to the Water Board, sign and return the original WAIVER OF HEARING form (enclosed) to our South Lake Tahoe office. In accordance with title 40, Code of Federal Regulations, section 123.27(d)(2)(iii), a 30-day public review period must be provided prior to the Water Board considering acceptance of any settlement of proposed administrative civil liability, to allow other persons an opportunity to comment on the action.

There are three possible scenarios following the 30-day comment period. Those scenarios are:

California Environmental Protection Agency

- Staff receives no new information from the public, and staff receives no new direction from the Water Board. In this scenario, the settlement of the Complaint in the amount of \$20,000 will be final.
- Staff receives direction from the Water Board to schedule an agenda item to consider if settling the Complaint for \$20,000 is in the public's interest. In this scenario, an agenda item will be scheduled for a future Water Board meeting where the Water Board will determine if it will accept settlement of the Complaint for \$20,000. This agenda item will be limited to a consideration of whether the settlement is in the public interest and would include consideration of public comments concerning the settlement.
- Staff receives new information that convinces staff that settling the Complaint for \$20,000 liability may not be in the public's interest. In this scenario, staff will issue a new ACL Complaint and schedule a public hearing for a future Water Board meeting to be held within 90 days of issuing the new ACL Complaint. The public hearing will be the venue for all interested parties to present evidence to the Water Board concerning the allegations stated in the new ACL Complaint.

GTO Development Does Not Waive Hearing

If GTO Development chooses not to waive the hearing, a hearing will be held at the Water Board's **May 23-24, 2007** meeting. To ensure the Water Board has the opportunity to fully study and consider written material, all written material must be submitted at least ten (10) days before the hearing. This will allow distribution of material to the Water Board Members in advance of the hearing. Pursuant to California Code of Regulations, title 23, section 648.4, the Water Board Chair may refuse to admit written testimony into evidence if submitted late, unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would otherwise create a severe hardship. If any other party demonstrates prejudice from the late admission of the written testimony, the Water Board may refuse to admit it.

Schedule for Processing ACL Complaint

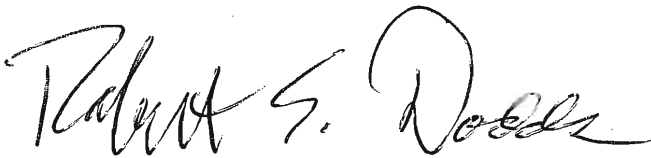
GTO Development may submit the Waiver of Hearing Form and payment of the recommended liability at any time up to **May 13, 2007**. However, if Water Board staff does not receive the Waiver of Hearing Form and payment of the recommended liability by **April 18, 2007**, staff will schedule a hearing and prepare an Administrative Civil Liability Order for the Water Board's consideration at its **May 23-24, 2007**, meeting. GTO Development and/or its representative would then have an opportunity to contest before the Water Board the allegations and amount of recommended liability presented in Administrative Civil Liability Complaint No. R6T-2007-0016.



Right to Petition

GTO Development may petition the State Water Resources Control Board to review the decision of the Water Board in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The State Water Resources Control Board must receive the petition within 30 days after the Water Board meeting at which the action will be taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

If you have any questions or comments regarding this matter, please contact Brian Grey at (530) 542-5421, or Chuck Curtis at (530) 542-5460.



ROBERT S. DODDS
ASSISTANT EXECUTIVE OFFICER

Enclosures: Complaint No. R6V-2007-0016
Waiver of Hearing Form

cc (w/ACL Complaint): Regional Board Members
David Coupe, Office of Chief Counsel, State Water Resources
Control Board
Mark Bradley, State Water Resources Control Board, Office of
Enforcement
Cindi Mitton, Lahontan Regional Water Quality Control Board
Ron Fussel, Lake Arrowhead Community Services District
Chris Altmeyer, WTA Construction Company
David Fenn, Fenn-Robbins Homes

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

In the matter of GTO Development: Violation of)
Water Code Section 13376 and Waste Discharge)
Prohibitions Prescribed in the <i>Water Quality Control</i>) COMPLAINT NO.
<i>Plan for the Lahontan Region</i> for the Unauthorized) R6V-2007-0016 FOR
Discharge of Untreated Wastewater to Surface Waters) ADMINISTRATIVE
Within the Upper Mojave Hydrologic Area, Lake) CIVIL LIABILITY
Arrowhead, San Bernardino County)

GTO DEVELOPMENT, YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with violating provisions of law and regulations for which the California Regional Water Quality Control Board, Lahontan Region (Water Board) may impose administrative civil liability pursuant to California Water Code (Water Code) section 13385, subdivision (a)(1), and section 13385, subdivision (a)(4).
2. Unless waived, a hearing on this matter will be held before the Water Board within 90 days following the issuance of this Complaint. GTO Development, or its representatives, will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Water Board. An agenda showing the approximate time set for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Water Board will consider whether to affirm, reject, or modify (either increase or decrease) the proposed civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. Discharger

GTO Development is the legal owner of Tract 16211 in the Lake Arrowhead area of San Bernardino County. Fenn-Robbins Homes is GTO Development's general contractor. WTA Construction is a subcontractor hired by Fenn-Robbins Homes. GTO Development is subject to administrative civil liability because it is the sole owner of the property on which the discharge occurred, and it is ultimately responsible for activities occurring on its property. GTO Development is hereinafter referred to as the "Discharger."

5. Project

The Discharger is constructing a 41-unit residential development known as Tract 16211. Tract 16211 is located in an area that is tributary to Lake Arrowhead, adjacent to Kuffel Canyon Road. As a part of the project, the Discharger completed a new sewer connection for Tract 16211 to the Lake Arrowhead Community Services District's (District) existing sewer system (as shown on *Sewer Improvement Plan- Tract 16211*, dated February 23, 2005).

6. Facts

- a. On June 16, 2005 at 10:30 a.m., the contractor (WTA Construction) working on sewers in Tract 16211 telephoned the District and reported that it had broken a 10-inch diameter water main.
- b. At approximately 10:45 a.m., District staff arrived at the scene of the broken water main. District staff noted that the manhole shafts on an existing manhole had been removed and that the water from the broken water main was draining through the open manhole into the active sewer system. The active sewer system could not handle the additional volume of flow from the water main break and wastewater was discharging out of three manholes. One manhole was located at the entrance to Tract 16211 and two were located within the Village Cove Development. The wastewater overflow traveled via storm gutters and across private property into Fleming Creek. From Fleming Creek, the wastewater continued down to the point of the creek's entry into Lake Arrowhead, a municipal drinking water supply. Lake Arrowhead is tributary to Little Bear Creek, which is tributary to Deep Creek.
- c. Approximately one hour after the break occurred, the water main valves were located and shut off. The valve risers for the water main could not be immediately located because they had been buried with soil from heavy equipment operation and grading activities by the Discharger's contractors. As a result of stopping the potable water flow into the active sewer system, the wastewater overflows from the manholes began to subside. At approximately 12:20 p.m., sewer flows returned back to normal flow conditions, and all three manhole overflows had ceased.
- d. The District estimates that approximately 35,000 gallons of wastewater spilled during the incident. This estimate is based on the total estimate of potable water that was lost due to the water main break, 378,500 gallons, and the estimated amount of wastewater that was pumped through Lift Station 5A (located downstream from the break), 343,500 gallons. The difference between the two estimates is the assumed discharge volume. This assumption is conservative, as it does not account for the amount of normal sewer system flow through the sewer in that area during the discharge event. If that normal sewer flow was considered, the calculated discharge volume would be greater.
- e. District staff performed on-site cleanup of the affected ground areas and the collection system for the next three days.
- f. On the day of the water main break, the District issued a "Precautionary Boil Water Order" to residents advising them to boil their water until testing confirmed that it was safe to drink. The water main was turned back on at 7 p.m., June 16, 2005. However, the District did not issue a "Cancellation of Boil Water Order" until June 19, 2005.

- g. District staff posted sewage contamination warnings adjacent to the area around Fleming Creek's point of entry into Lake Arrowhead on the day of the discharge to warn the public of the sewer overflow. The District requested the Arrowhead Lake Association (ALA) to set up a spill buoy system with warning signs to keep boat activity out of the affected area. ALA patrolled the area by boat to ensure the closure.
- h. District staff collected three surface water samples from Lake Arrowhead near the mouth of Fleming Creek on June 16, 2005, at approximately 12:40 p.m., to evaluate the impact from the sewer overflows. Samples were collected at Dock #S190B, 5 Docks West #S187, and 5 Docks East #194. Samples were analyzed for total coliform, fecal coliform, and fecal streptococci.
- i. On June 20, 2005, the District received results of the surface water sampling. Sample results at Dock #S190B indicated 180 total coliform organisms per 100 mL, 23 fecal coliform organisms per 100 mL, and 21 fecal streptococci organisms per 100 mL. These concentrations were the highest of the three samples collected. Based on the sample results, which did not exceed the California Department of Health Services' standards for surface waters adjacent to public beaches, the closed portion of the lake was re-opened.
- j. The District received a request from Underground Service Alert, also known as Dig Alert, on March 8, 2005 to mark utilities in Tract 16211. District staff marked the location of sewer lines in Tract 16211 on March 20, 21, 25 and 30 and the location of the water infrastructure including the valve risers for the water main on April 8, 14, 15, and 20. Dig Alert Ticket #A000670520 shows that the District received a request to remark utilities within a specific portion of the project area on May 26, 2005; however, no requests to remark the location of the utilities in the vicinity of the spill area were made until June 20, 2005, four days after the spill occurred.
- k. The District notified the following agencies of the unauthorized discharge on June 16, 2005:
 - Office of Emergency Services
 - Lahontan Regional Water Quality Control Board
 - Department of Health Services-Division of Drinking Water
 - San Bernardino County Environmental Health Services Department
 - California Department of Fish and Game
 - Lake Arrowhead Community Services District-Operations Department
 - Arrowhead Lake Association
- l. Lake Arrowhead and its tributaries are located within the Mojave Hydrologic Unit upstream of the Lower Narrows at Victorville. These waters are tributary to Deep Creek and are located at elevations above 3,200 feet above mean sea level, with Lake Arrowhead at an elevation of 5,191 feet above mean sea level. Lake Arrowhead and its tributaries are waters of the United States and of the state.

7. Violation-Basin Plan Prohibitions

The Discharger violated the following prohibitions specified in the Basin Plan, adopted pursuant to Water Code section 13243.

Regionwide Prohibitions

- A. "The discharge of waste which causes violation of any narrative water quality objective contained in this Plan, including the Nondegradation Objective, is prohibited."
- B. "The discharge of untreated sewage, garbage, or other solid wastes, or industrial wastes into surface waters of the Region is prohibited. (For the purposes of this prohibition, "untreated sewage" is that which exceeds secondary treatment standards of the Federal Water Pollution Control Act, which are incorporated in this plan on page 4.4-3 under "Surface Water Disposal of Sewage Effluent.").

Unit/Area Specific Prohibitions - Mojave Hydrologic Unit

- C. "The discharge of waste to surface water in the Mojave Hydrologic Unit that is tributary to the West Fork Mojave River or Deep Creek, above elevation 3,200 feet (approximate elevation of Mojave Forks Dam), is prohibited. This prohibition does not apply to stormwater discharges unless such discharges create a condition of pollution or nuisance. (Figure 4.1-23)"
- D. "The discharge of waste to land or water within the following areas is prohibited (Figure 4.1-23):
 - a) The Silverwood Lake watershed
 - b) The Deep Creek watershed above elevation 3,200 feet
 - c) The Grass Valley Creek watershed above elevation 3,200 feet.

This prohibition does not apply to stormwater discharges unless such discharges create a condition of pollution or nuisance. "

- E. "The discharge of wastes of sewage-bearing origin to surface waters in the Mojave Hydrologic Unit upstream of the Lower Narrows at Victorville is prohibited."

The Discharger violated prohibition A cited above when activities associated with its project (described in Finding Nos. 6.a and 6.b) resulted in the approximately 35,000-gallon discharge of raw sewage and potable water to Fleming Creek, and subsequently Lake Arrowhead, creating conditions violating the narrative water quality objective for bacteria (coliform). The Basin Plan specifies the following narrative water quality objective for bacterial (coliform) in surface waters:

“Waters shall not contain concentrations of coliform organisms attributable to anthropogenic sources, including human and livestock wastes.”

The sewage discharge introduced coliform organisms that are directly attributable to anthropogenic sources and include human wastes.

The Discharger violated prohibitions B – E cited above when activities associated with its project (described in Finding Nos. 6.a and 6.b) resulted in the approximately 35,000-gallon discharge of raw sewage and potable water to land, Fleming Creek, and subsequently Lake Arrowhead. Fleming Creek and Lake Arrowhead are surface waters located within the Lahontan Region’s Mojave Hydrologic Unit above 3,200 feet, as discussed in Finding No. 6.I. Lake Arrowhead discharges into Deep Creek. The affected surface waters are also located upstream of the Lower Narrows at Victorville.

The Water Board did not authorize the above-referenced discharge of raw sewage and potable water to lands or surface water in the Mojave Hydrologic Unit, nor did the Water Board grant exemptions to the above-cited prohibitions.

8. Violation- Water Code Section 13376

The Clean Water Act establishes permit requirements for point source discharges to surface waters, known as the National Pollutant Discharge Elimination System (NPDES, 33 U.S. Code section 1342). California is authorized by the United States Environmental Protection Agency to administer its own NPDES program pursuant to 33 U.S. Code section 1342(b).

Chapter 5.5 of the Porter-Cologne Water Quality Control Act (Water Code section 13370 et seq.) authorizes the State and regional boards to issue waste discharge requirements, defined to be the equivalent of NPDES permits that meet all federal requirements of the Clean Water Act.

Water Code section 13376 states, in part,

“...any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States . . . shall file a report of the discharge in compliance with the procedures set forth in Section 13260 . . .”

and

“The discharge of pollutants . . . except as authorized by waste discharge requirements [NPDES permit] . . . is prohibited.”

The Discharger, by failing to file a report of waste discharge as set forth in Water Code section 13260 and failing to obtain an NPDES permit prior to the discharges described in the above Findings, has violated Water Code section 13376.

9. Administrative Civil Liability Authority

The Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (a)(1) and subdivision (a)(4). Water Code section 13385, subdivision (a) states:

“Any person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.”

The Discharger violated Water Code section 13376 as described in Finding 8. The Discharger violated prohibitions contained in the Water Board’s Basin Plan (pursuant to Water Code section 13243) as described in Finding No. 7. The Water Board can, therefore, impose civil liability pursuant to Water Code section 13385, subdivision (a)(1) and subdivision (a)(4).

PROPOSED CIVIL LIABILITY

10. Civil Liability – California Water Code

For the violation of Basin Plan prohibitions and Water Code section 13376, the Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (c). Water Code section 13385, subdivision (c) states:

“Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”

In this matter, the maximum civil liability under Water Code section 13385, subdivision (c) is \$350,000 for the discharge of a mixture of raw sewage and potable water to Fleming Creek and subsequently to Lake Arrowhead. This civil liability is based upon:

- A. One day of violating Basin Plan prohibitions and the Clean Water Act. Maximum potential liability for this element is \$10,000.
- B. The unauthorized 35,000-gallon raw sewage/potable water discharge to a surface water that was not susceptible to cleanup. The volume not susceptible to cleanup and exceeding 1,000 gallons is 34,000 gallons. Maximum potential liability for this element is \$340,000 (\$10 x 34,000 gallons).

11. Factors Affecting the Amount of Civil Liability

Water Code section 13385, subdivision (e) requires the Water Board to consider enumerated factors when it decides the amount of civil liability for a discharge covered by Water Code section 13385. The Assistant Executive Officer of the Water Board considered those factors in recommending the amount of the administrative civil liability:

- a. The nature, circumstances, extent, and gravity of the violations;

Approximately 35,000 gallons of a mixture of raw sewage and potable water overflowed from the District's sewer collection system as a result of the Discharger's subcontractor breaking a potable water main. The overflow traveled via storm gutters and across private property into Fleming Creek and ultimately into Lake Arrowhead. The District estimated that approximately 95 percent of the mixture that discharged was potable water. The District reported that the water main shutoff valves could not be immediately located because the Discharger's subcontractor had covered the valve boxes with soil. This resulted in an estimated additional 45 minutes of discharge. The discharge resulted in conditions that violated the Basin Plan's narrative water quality objective for bacteria (coliform), and consequently violated a Basin Plan prohibition, as discussed in Finding No. 7.

The discharge also adversely affected beneficial uses of Fleming Creek and Lake Arrowhead. Beneficial uses identified in the Basin Plan for Lake Arrowhead (and its tributaries by the tributary rule) include:

municipal and domestic supply (MUN)	groundwater recharge (GWR)
agricultural supply (AGR)	wildlife habitat (WILD)
water contact recreation (REC-1)	cold freshwater habitat (COLD)
non-contact water recreation (REC-2)	navigation (NAV)
commercial and sport fishing (COMM)	

The tributary rule (Basin Plan page 2-3) states:

“Unless otherwise specified, beneficial uses also apply to all tributaries of surface waters identified in Table 2-1 (i.e., specific surface waters which are not listed have the same beneficial uses as the streams, lakes, wetlands, or reservoirs to which they are tributary).”

Fleming Creek is tributary to Lake Arrowhead. Therefore, the beneficial uses designated for Lake Arrowhead are also applicable to Fleming Creek.

The REC-1, REC-2, and COMM beneficial uses were adversely affected when the discharge incident resulted in the District posting sewage contamination warnings adjacent to the affected surface waters for a five-day period. Additionally, the Arrowhead Lake Association patrolled by boat the affected portion of the lake to prevent public contact with sewage-contaminated waters. Discharging waste to waters that adversely affects beneficial uses of those waters constitutes a condition of pollution, as defined by Water Code section 13050, subdivision (l)(1). Water Code section 13050, subdivision (l)(1) states:

“‘Pollution’ means an alteration of the quality of waters of the state by waste to a degree which unreasonably affects either of the following:

(A) The water for beneficial uses.

(B) Facilities which serve these beneficial uses.”

A condition of pollution was therefore created when the REC-1, REC-2, and COMM beneficial uses were adversely affected by the five-day closure period resulting from the discharge incident. The discharge also had the potential for adversely affecting the MUN beneficial use of Lake Arrowhead, which provides a portion of the water supply for the Lake Arrowhead area.

b. Whether discharge is susceptible to cleanup or abatement;

Although the District and WTA Construction provided prompt cleanup of affected ground surfaces and the sewer collection system, the bulk of the spill was not susceptible to cleanup.

c. The degree of toxicity of the discharge;

There were no analyses performed to determine the degree of toxicity of the discharge. Untreated domestic wastewater contains pathogens that can cause sickness and (rarely) death in humans that ingest or are otherwise exposed to such materials.

d. Ability to pay;

Water Board staff is not aware of any reason that the Discharger would be unable to pay the proposed liability. The Discharger now has the opportunity to provide any financial data to the Water Board showing an inability to pay the proposed liability.

e. The effect on the Discharger's ability to continue its business;

Water Board staff is not aware of any reason that the Discharger's ability to continue business would be affected by the proposed liability. The Discharger now has the opportunity to provide any information to the Water Board showing an inability to continue its business due to payment of the proposed liability.

f. Any voluntary clean up efforts undertaken by the violator;

WTA Construction immediately contacted the District after puncturing the water main and provided assistance to the District in responding to the spill. The District undertook immediate efforts to clean affected ground surfaces and the collection system. No cleanup of surface waters occurred.

g. Prior history of violations;

The Discharger has no recorded prior violations.

h. Degree of culpability;

GTO Development is the property owner of the noted development (see Finding No. 4 of this complaint), and is also the permit holder under State Water Resources Control Board Order No. 99-08-DWQ. It is, therefore, directly and ultimately responsible for all actions related to the project that is occurring on its property.

The District received a request from Underground Service Alert, also known as Dig Alert, on March 8, 2005 to mark utilities in Tract 16211. Dig Alert Ticket #A000670520 shows that the District received a request to remark utilities on Rockledge Lane on May 26, 2005; however, the District did not receive any requests to remark the location of the utilities in the vicinity of the spill area until June 20, 2005, four days after the spill occurred. According to District staff, no Dig Alert markings were visible at the time of the spill due to soil scattered over the markings from heavy equipment operation and grading activities. It is the responsibility of the Discharger's contractor to call Dig Alert before excavating and request a remarking of utilities if the utility markings are not visible or are inadequately marked. WTA Construction punctured the 10-inch water main during sewer connection activities, and that action caused the overflow from the sewer to occur.

The Discharger's subcontractor also contributed to an increased duration of the spill because the valve risers for the water main had been covered with soil during grading activities. This resulted in an estimated additional 45 minutes of discharge since District staff had to locate the valve risers and remove excess soils before the water main could be turned off. The District had previously marked the location of the valve risers for the water main.

- i. Economic savings resulting from the violation;

The Water Board is unaware of any avoided costs associated with the discharge.

- j. Other matters as justice may require.

Water Board staff have spent time responding to the incident and preparing the administrative civil liability. Estimated staff costs for incident response and complaint preparation are \$3,426.

12. Amount of Civil Liability

The Assistant Executive Officer of the Water Board considered the above factors and proposes that administrative civil liability be imposed by the Water Board in the amount of **\$20,000**, pursuant to Water Code section 13385.

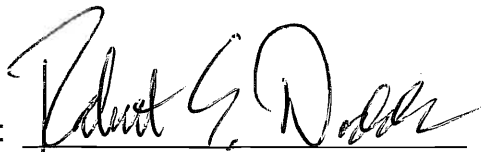
WAIVER OF HEARING

You may waive the right to a hearing. Waiver of your right to a hearing constitutes acceptance of the assessment of civil liability in the amount set forth within the Complaint. If you wish to waive your right to a hearing, an authorized person must sign the waiver form below, and send it with a cashier's check or money order for the full amount of the civil liability assessment, made payable to the **California State Water Resources Control Board, Cleanup and Abatement Account** and mailed, to the address below.

California Regional Water Quality Control Board – Lahontan Region
Atten: Robert S. Dodds, Assistant Executive Officer
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Please note that any waiver will not be effective until reasonable opportunity for public participation has been provided pursuant to federal National Pollutant Discharge Elimination System (NPDES) regulations (40 Code of Federal Regulation [C.F.R.] Parts 122, 123, and 124). The Water Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after a public comment period.

Ordered by:



ROBERT S. DODDS
ASSISTANT EXECUTIVE OFFICER

Dated:

April 2, 2007

Attachment: Figure 1 (sketch of spill location)



California Regional Water Quality Control Board

Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

WAIVER OF RIGHT TO A PUBLIC HEARING

GTO Development
c/o Roger O'Neal
100 Wilshire Blvd., Suite 1270
Santa Monica, CA 90401

Complaint No. R6T-2007-0016
For
Administrative Civil Liability
\$20,000

By signing below, GTO Development waives its right to a hearing before the California Regional Water Quality Control Board, Lahontan Region (Water Board) with regard to the violations alleged in Complaint No. R6V-2007-0016 (the Complaint) and agrees to remit payment for the amount of the civil liability set forth above. (For payment, please make the check payable to the "California State Water Resources Control Board, Cleanup and Abatement Account.") The District has been informed of the right provided by Water Code Section 13323, Subdivision (b), to a hearing within ninety (90) days of issuance of an Administrative Civil Liability (ACL) Complaint and herein waives that right.

The party signing below is a duly authorized representative of GTO Development in connection with the Complaint. By signing below GTO Development neither admits nor denies the allegations contained in the Complaint.

Please note that the settlement of the Complaint, as provided above, will not be effective until reasonable opportunity for public participation has been provided pursuant to federal National Pollutant Discharge Elimination System (NPDES) regulations (40 Code of Federal Regulations [CFR] parts 122, 123, and 124). In accordance with 40 CFR part 123.27(d)(2)(iii), the Water Board will notify interested persons of the proposed settlement for the recommended liability and will solicit comments on the settlement for a period of 30 days.

During the period of public participation, which includes the 30-day comment period and a reasonable time thereafter for the Water Board to review and evaluate any public comments received, the Water Board retains complete discretion to terminate this settlement by withdrawing the Complaint and issuing a new ACL Complaint. This waiver is void if the Water Board withdraws the Complaint.

California Environmental Protection Agency

Signature

Title

Date

Print your name

Send this signed form and settlement check to:
California Regional Water Quality Control Board – Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

